

### **REMARKS**

As of the Office Action dated May 10, 2005, which was made Final, claims 1-12 are pending. Claims 1-12 stand rejected under 35 U.S.C § 103(a) as being obvious over EP Pub. 0 511 671 A2 to Naito et al. (hereinafter Naito) in view of U.S. Pat. No. 6,598,304 B1 to Kloth (hereinafter Kloth).

The Examiner in the "Detailed Action" portion (pages 2-5) of the present Office Action has restated, verbatim, the claim rejections of the previous Office Action of December 2, 2004. Beginning on page 5 of the Office Action, the Examiner essentially makes 4 distinct points in response to the Applicants' previous arguments.

Applicants kindly request reconsideration of the rejections of claims 1-12 in view of the further arguments presented below:

1. The Examiner's first "response" disagrees with Applicants' contention that "Naito never describe nor suggests that data units transferred from another node are processed so as to recover first packets." The Examiner states that this is a basic concept on which any ATM network operates.

The Examiner is right with respect to the observation that Applicants' teachings use basic networking concepts. However, simply applying the basic concepts as set forth in Naito would not be sufficient to arrive at Applicants' claims. To clarify the Applicants' teachings, test packets have been inserted into data units **before** their transmission over the data unit network (claim 1, step of "multiplexing the first and second packets so as to form a stream of multiplexed packets"). The portions of Naito that the Examiner references (Figure 2 and page 4, lines 39-50) merely disclose multiplexing input cells with test cells, not processing first data units originating from the external network facility so as to recover first packets transported by the first data units, as claim 1 recites. In fact, Naito does not disclose, teach or suggest packets or processing packets at all. Applicants appreciate and understand the Examiner's explanation that Naito's ATM cells have been mapped to Applicants' data unit, however Applicants respectfully disagree that Naito's Figure 2 and page 4, lines 39-50 teach, disclose or suggest packets and multiplexing thereof. As a result, Naito does not disclose, teach or suggest at least the Applicants' processing, multiplexing and converting steps as recited in claim 1.

2. The Examiner's second "response" disagrees with Applicants' contention that "Naito does not disclose, teach or suggest the multiplexing of the first data packet with second data packets." The Examiner makes reference to Naito figures 2 and 6, page 4, line 39 to page 5, line 10 and page 5 lines 38-52 and states that "Naito discloses multiplexing test cells with the other cells in the ATM cell stream." These portions of Naito merely

disclose multiplexing input cells with test cells, not multiplexing first packets with second packets.

Importantly, in the previous paragraph the Examiner states that “the examiner has mapped ATM cells to the data units”. If we follow the Examiner’s mapping, then, it would logically follow that Naito discloses multiplexing test data units with other data units in the data unit stream. Applicants’ multiplexing step is not reciting multiplexing of data units, but rather multiplexing of packets that are encapsulated in data units with test packets. The Examiner is applying the mapping indiscriminately and improperly to both of the Applicants’ recited data unit and packets although the data units and packets thereof are separate and distinct features. If the Examiner were to properly apply the foregoing-described mapping, then it is clear that Applicants’ claims distinguish over Naito because Naito discloses multiplexing data units and the Applicants teach multiplexing of packets within data units.

3. The Examiner’s third “response” disagrees with Applicants’ discussion on the different problems solved by Naito as compared to Applicants’ invention. Arguing in favor of patentability, Applicants provided support from the as-filed specification that one of the problems addressed by Applicants’ invention was the fact that many different protocols caused difficulty for interoperability among different systems. As can be appreciated, Naito is limited to ATM protocols and does not disclose, teach or suggest any method to handle other types of different (proprietary) protocols. Applicants’ claim 1 is not limited to an ATM protocol (or any other protocol, for that matter) and is useful for handling various types of protocols, including ATM and other proprietary protocols known in the art.

Applicants respectfully decline the Examiner’s suggestion to amend the claims. Applicants submit that the Examiner misunderstood Applicants’ statement that “Naito does not disclose a method to handle proprietary protocols” to mean that Applicants’ claims are limited to handling only proprietary protocols. Again, Applicants’ claims are not limited to any type of protocols (unlike Naito) and thus no claim amendment should be necessary, for the obvious reasons.

4. The Examiner’s fourth “response” addresses Kloth. The Examiner states that Kloth discloses that “a switch/router which receives IP packets from an external network facility and converts the IP packets to ATM cells over an ATM network...” The Examiner characterizes IP packets of Kloth as Applicants’ first packets and the ATM cells of Kloth as Applicants’ data units. However, Applicants’ teachings are directed to receiving data units, as opposed to receiving packets (i.e., Kloth’s IP packets). Furthermore, Applicants teach processing the data cells so as to recover first packets (e.g.,

IP packets of Kloth), multiplexing the first packets with second packets (generated test traffic), converting the multiplexed first and second packets into second data units, and transmitting the second data units. Kloth does not disclose, teach nor suggest that first packets are recovered from the first data units because Kloth does not receive data units (e.g., ATM cells) from which packets can be recovered, but rather, Kloth receives packets. In further support, the Examiner states that Kloth discloses receiving “IP packets from an external network facility and converting the IP packets to ATM cells and routes the ATM cells over an ATM network and at the destination switch/router recovering the IP packets (first packets) from the ATM cells (first data units).” In a side-by-side comparison (see table below) of the Examiner’s characterization of Kloth and Applicants’ claim it becomes clear that Kloth does not map to the recited limitations of Applicants’ claim 1 (at best, two steps of Kloth somewhat correspond to limitations of claim 1) and, therefore, Kloth does not disclose, teach or suggest Applicants’ claim 1 alone or in combination with Naito.


Examiner’s Characterization of Kloth	Steps of Applicants’ claim 1
[switch/router which] receives IP packets from an external network facility and	
	processing first data units originating from the external network facility so as to
	recover first packets transported by the first data units;
	generating test traffic carried by second packets of said higher layer protocol;
	multiplexing the first and second packets so as to form a stream of multiplexed packets;
<i>converts</i> the IP packets to ATM cells and	converting the stream of multiplexed packets into second data units according to said point-to-point transmission interface format; and
routes the ATM cells over an ATM network and	transmitting the second data units to the switching system.
at the destination switch/router recovering the IP packets from the ATM cells.	

The Examiner makes reference to figure 14, col. 2, line 27 to col. 3, line 40, and col. 14, lines 39-50 of Kloth. Applicants fail to understand how these portions of Kloth suggest Applicants’ claimed invention.

Conclusion

In view of the foregoing, Applicants request reconsideration and submit that claims 1-12 distinguish over the cited references. If, in the opinion of the Examiner, a telephone conference would help clarify the Applicants' arguments above, the Examiner is invited to call the undersigned.

Respectfully submitted,



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Date: August 5, 2005

In re Application of Bonjour et al.  
Application No. 09/838,466  
Response to Final Office Action of May 10, 2005

CERTIFICATE OF MAILING

I hereby certify that this RESPONSE TO FINAL OFFICE ACTION OF MAY 10, 2005 (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date: August 5, 2005

  
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Irina L. Mikitiouk